

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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FRANCISCO RODRIGUEZ and ARISTIDES
ALFREDO DILLATORO,

Plaintiffs,

- against -

Civil Case No.: 2:16-cv-0254
(DRH)(AKT)

**DECLARATION OF
PHILIP D'ONOFRIO
IN SUPPORT OF
DEFENDANTS' MOTION
FOR SUMMARY JUDGMENT**

RIDGE RESTAURANT, INC. d/b/a ALFREDO'S PIZZERIA,
DENNIS D'ONOFRIO, and PHILIP D'ONOFRIO,

Defendants.
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I, Philip D'Onofrio, hereby states and declares:

1. I am a defendant herein and was an employee of defendant Ridge Restaurant, Inc. d/b/a Alfredo's Pizzeria, "Pizzeria", during the times that plaintiffs worked there. I have and had no ownership interest therein. I make this declaration in support of the defendants' motion for dismissal and summary judgment. I have knowledge of the facts stated herein.

2. Plaintiff Francisco Rodriguez worked at the Pizzeria during the period October, 2014 to March 2015, as reflected in the time cards referenced in paragraph 5 below. Plaintiff Aristides Alfredo Dillatoro worked at the Pizzeria during the period October, 2014 to April 2015, as reflected in the time cards referenced in paragraph 5 below. During those periods I was employed as a manager of the Pizzeria.

3. I was hired as a manager by the Pizzeria in 2001 by Dennis D'Onofrio, the principal of the Pizzeria, and I report to Dennis D'Onofrio. I ceased work at the Pizzeria in 2016. I was one of two managers reporting to Dennis D'Onofrio. I worked 4 or 5 days a week during 2014 and 2015. I did not have the power to hire or fire employees of the Pizzeria without

the approval of Dennis D'Onofrio. I did not set the pay rates for employees of the Pizzeria and did not compute or pay wages to such employees. My duties as a manager included opening and closing the Pizzeria on various days and supervising the kitchen and front restaurant areas.

4. Plaintiffs (and other workers) were entitled during their shifts to two 15 minute breaks and 30 minutes for lunch and were so advised. All workers at the Pizzeria took their breaks and lunch periods every day, including the plaintiffs. Neither plaintiff ever made a complaint to me concerning his working conditions or his compensation.

5. Employees of the Pizzeria checked in and out of work by utilizing a time clock and time cards. Employees did not work before "clocking in" or after "clocking out". Plaintiffs' hours worked are reflected thereon. The time cards are attached to the accompanying declaration of Dennis D'Onofrio.

Pursuant to 28 USC§1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 9, 2019


Philip D'Onofrio